

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
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Assistant City Attorneys

January 23, 2004

Ms. Kathleen M. Marquardt
Staff Assistant
City Clerk's Office
City Hall, Room 205

Re: File Numbers 031352

Dear Ms. Marquardt:

The person described in Exhibit A has submitted a request to the Common Council for the vacation of the City's *In Rem* Judgments regarding the property described therein. You have requested a report concerning this request.

Our position is that the City took all steps required of it under law to foreclose against the property at issue. Those steps included allowing the property owner a statutory right of redemption which right was not exercised. Due to the failure to redeem, the City foreclosed against the parcel, and thereby acquired fee simple title foreclosing any interest, which the former owner had in the parcel.

Under City Ordinance sec. 304-49-6-c-6, when a timely request for vacation is submitted to the City the final determination with respect to whether property should be returned to the former owner is to be made by the Common Council. If the Common Council so grants approval, the City Attorney's Office may enter into a stipulation providing for all City and County taxes, assessments and charges (including: interest and penalties through the date of the order to vacate the *In Rem* judgment; administrative and overhead costs of the City Treasurer's Office, the City Attorney's Office, and the Department of City Development; and the cost of repairs made to the

Ms. Kathleen M. Marquardt

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property by the City subsequent to the date of the entry of the *In Rem* judgment) to be paid by cash or cashier's check to the City Treasurer's Office. Payment must be made within 45 days of the date of the resolution of the Common Council approving the return. See, City Ordinance secs. 304-49-6-c-6 through c-9.


In light of the above, and concerning the particular property at issue, SO LONG AS THE WRITTEN REQUESTS FOR VACATION WERE SUBMITTED TO THE CITY WITHIN 45 DAYS OF THE RESPECTIVE *IN REM* FORECLOSURE JUDGMENTS, this office has no objection to the Common Council and/or the Judiciary and Legislation Committee, in its or their discretion, determining that the parcel should be returned to the former owner in accordance with the above-referenced ordinance.

Please call if you have questions or comments.

Very truly yours,



GRANT F. LANGLEY
City Attorney



BEVERLY A. TEMPLE
Assistant City Attorney

BAT:wt:75665

Enclosures

c: Ronald D. Leonhardt, City Clerk

EXHIBIT A

- | | | |
|----|------------------------------|---------------------------------------|
| 1. | File No. | 031352 |
| | Requestor: | Winston Gill |
| | Parcel Address: | 3301 West Cherry Street |
| | Tax Key No. | 365-1162-000-1 |
| | Foreclosure Action: | 2003, No. 2 In Rem, Parcel 229 |
| | | Case No. 03-CV-008330 |
| | Date of City Acquisition: | January 12, 2004 |
| | | Acq. plus 45 days = February 26, 2004 |
| | Date of Requestor's Request: | January 15, 2004 |